



## LOCAL GOVERNMENT INTERIM COMMITTEE 67th Montana Legislature

### SENATE MEMBERS

Kenneth Bogner  
Ellie Boldman  
John Esp  
Mark Sweeney

### HOUSE MEMBERS

Larry Brewster  
Geraldine Custer  
Mary Ann Dunwell  
Dave Fern  
Steve Gist  
Kathy Kelker

### COMMITTEE STAFF

Toni Henneman - Research Analyst  
Julie Johnson - Attorney  
Katya Grover - Secretary

# MINUTES LOG

January 27 & 28, 2022

January 28, 2022

Room 137

Helena, Montana

Please note: This document is a Minutes Log and provides annotation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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### **MEMBERS PRESENT:**

Rep. Geraldine Custer, Chair (R)  
Sen. Kenneth Bogner (R)  
Rep. Larry Brewster (R)  
Rep. Mary Ann Dunwell (D)  
Sen. John Esp (R)  
Rep. Dave Fern (D)  
Rep. Kathy Kelker (D)  
Sen. Steve Gist (R)

### **MEMBERS EXCUSED:**

Sen. Mark Sweeney, Vice Chair (D)  
Sen. Ellie Boldman (D)

### **STAFF PRESENT:**

Toni Henneman, Research Analyst  
Julie Johnson, Attorney  
Katya Grover, Secretary

**AGENDA (Attachment 1)**

**VISITORS' LIST (Attachment 2)**

**RECONVENE**

- 09:02:28 Chair Custer reconvened the meeting at 9:02 a.m.
- 09:03:33 Rep. Brewster disclosed that he was offered a position as interim general manager for the Water District in the City of Billings and that there was no conflict of interest.

**SPECIAL DISTRICTS – EDUCATIONAL MATERIALS**

**Review of District Types**

- 09:04:50 Toni Henneman, Research Analyst, referred the committee to public comment from Rob Cook, Montana Newspapers Association Lobbyist, that was placed at the members place. **(Exhibit 9)**
- 09:05:00 Ms. Henneman discussed the Financial Reporting Requirements – Local Government Entities briefing paper. **(Exhibit 10)**
- 09:09:21 Rep. Kelker asked Ms. Henneman who would be liable if the board was not running the water system correctly.
- 09:10:30 Ms. Henneman continued her presentation.
- 09:12:54 Rep. Gist asked Ms. Henneman to define the term "audit".
- 09:13:11 Ms. Henneman responded.
- 09:13:53 Chair Custer commented.
- 09:14:17 Ms. Henneman continued her presentation on Local Government Entities. **(Exhibit 11)**
- 09:14:58 Rep. Dunwell asked why the Richland County Housing Authority is considered a special district.
- 09:20:10 Rep. Fern asked how the department handles the information and does the department have enough staff to flag these issues.
- 09:21:41 Rep. Dunwell discussed the paperwork associated with the local government entities and asked why there is the need for special districts and why can't local governments or cities and towns cover the needed services.
- 09:24:38 Ms. Henneman discussed Municipal Annual Financial Reports to show the committee how the entities might be utilized **(Exhibit 12)**. She referred the committee to the packet of documents that deals with the county side **(Exhibit 13)**.

**Public Comment** - None

**SPECIAL DISTRICTS: MARA COMMITTEE UPDATE**

- 09:32:26 Nick VanBrown, Fiscal Analyst, LFD, provided an update on the MARA Study.

**Committee Discussion**

- 09:41:54 Rep. Dunwell asked Mr. VanBrown what the difference is between taxing districts and special districts.
- 09:43:56 Rep. Dunwell asked what the method of payment is that the property owners use.

**Public Comment** - None

**HOUSE JOINT RESOLUTION 30: COUNTY WATER/SEWER DISTRICT STUDY**

**Summary of Comparable Statutes**

**Current Statutory Language for Board Composition**

09:45:38 Ms. Henneman gave a presentation on statutory language for board compositions in the briefing paper HJ 30: County Water and/or Sewer Districts. [\(Exhibit 14\)](#)

**Questions from the Committee**

09:49:19 Rep. Kelker referred to her earlier question about board members' liability and noted that people didn't have professional knowledge and were hesitant to have the responsibility serving on boards.

09:51:50 Rep. Custer elaborated further on the points raised by Rep. Kelker.

09:52:11 Ms. Henneman responded.

**Appointment and Election Processes**

09:52:32 Ms. Henneman gave a presentation on appointment and election process in the HJ 30 Study [\(Exhibit 15\)](#).

**Public Comment on HJ 30 Study**

10:01:25 Dan Clark, Director, Local Government Center

**Questions of Mr. Clark**

10:06:40 Rep. Dunwell asked about 15-10-420, MCA, and the constraints put on local government to create more taxing districts.

10:08:30 Rep. Dunwell asked about the limit on increasing the mills by one half the rate of inflation.

10:09:55 Rep. Dunwell asked if we are creating more bureaucracy and administrative work than is necessary.

10:10:19 Sen. Esp explained what 15-10-420 contemplated.

10:11:53 Rep. Kelker asked about the sunset concept.

10:14:42 Rep. Kelker said that what Mr. Clark described are opportunities for what one might call best practice and those are the ones that we should be making people aware of them.

10:15:36 Rep. Gist asked about the scope of operation, how that looks, and could Mr. Clark explain how the process works.

10:18:46 Rep. Brewster asked Mr. Clark to comment on a hypothetical situation of when half the members of the board decide that they don't like what the other half is doing so they file a lawsuit. Is the district liable for both sides if they feel they are acting within their scope.

10:20:40 Eric Bryson, Montana Association of Counties (MACo), responded to Rep. Dunwell's and Sen. Esp's comments and questions.

10:27:43 Tim Burton, Executive Director, Montana League of Cities and Towns, commented further on Mr. Clark's and Mr. Bryson's comments.

10:31:00 Julie Spencer, District Manager, Bigfork Water and Sewer District and Woods Bay Water and Sewer District

## **COMMITTEE WORK SESSION: HJ30 STUDY**

10:33:25 Ms. Henneman discussed the timeline for the HJ 30 Study.

### **Committee Suggestions for the Study**

10:34:23 Rep. Fern suggested making training opportunities more available.

10:35:50 Rep. Kelker said it is important that the scope of work be clearly stated in a document when a district starts and if there are changes, have something in writing regarding what the districts can and can't do.

10:37:47 Rep. Kelker said that there needs to be a provision in the creation document stating that at specific intervals local government members would need to look at the purpose and scope with an opportunity to expand on the content of those documents.

10:38:18 Rep. Brewster suggested a possible bill draft that strikes language in the code where managers and board secretaries have to be bonded. He said that the language that allows the district to be absorbed by a municipality is unclear.

10:39:27 Rep. Gist asked Rep. Brewster what the purpose is of the having managers and secretaries bonded.

10:40:06 Mr. Bryson responded to the bonding question.

10:41:03 Rep. Custer commented on the bonding issue.

**BREAK** (reconvened at 11:15 a.m.)

## **SPECIAL DISTRICT OVERSIGHT – POTENTIAL CORRECTIVE MEASURES**

### **Overview of HB694 (2021)**

11:16:24 Ms. Henneman gave a presentation on the 2021 House Bill 694 Summary briefing paper. ([Exhibit 16](#))

### **Committee Discussion**

11:30:05 Rep. Kelker asked Rep. Gist who supported HB 694 in the 2021 Session.

11:36:40 Rep. Kelker asked if there was anything specific that needed to be taken care of that caused people to not vote for the bill.

11:37:59 Rep. Kelker asked if there were any county attorneys who were against HB 694.

11:38:40 Ms. Henneman responded.

11:38:54 Rep. Gist responded.

11:40:36 Rep. Fern commented.

11:45:03 Rep. Brewster commented.

### **Training and Corrective Options**

11:46:50 Dan Clark, Montana State University, Local Government Center, discussed training options for local government entities.

11:54:22 Eric Bryson, Montana Association of Counties (MACo)

### **Committee Discussion**

12:04:41 Sen. Esp gave background information on HB 694.

12:07:12 Rep. Gist discussed the overall costs and funding sources.

- 12:07:57 Rep. Custer asked about the filing costs of annual reports by special districts. Rep. Custer commented on how the training could be divided between the Department of Administration and the Local Government Center.
- 12:11:25 Rep. Gist commented on doing training remotely.
- 12:12:50 Sen. Esp suggested that when staff looks at potential bills, the mechanism bill may be a revenue or an appropriation bill that ties the policy and the money to enact the policy in the same bill.
- 12:13:33 Rep. Fern suggested moving forward with what Mr. Bryson discussed in 26-27-102, MCA, to give some options as far as an appropriate measure in a civil manner down the road to deal with the option of punishment. We need language that is relevant and modernized.
- 12:16:37 Mr. Bryson addressed Rep. Custer's comments.
- 12:18:44 Rep. Dunwell asked about using ARPA funds for local governments to increase effective training.
- 12:19:54 Mr. Bryson and Rep. Custer responded.
- 12:21:32 Mr. Clark said that the committee needs to consider the upcoming voter review process and expressed an interest in having a study commission.

#### **Public Comment**

- 12:25:12 Tim Burton, Montana League of Cities and Towns, said that the League would like to be considered a resource to the committee moving forward.

#### **LAND USE WORKING GROUP UPDATE**

- 12:26:00 Sam Sill, Montana Association of Realtors, provided an update on the activities of the Land Use Working Group.

#### **Committee Discussion**

- 12:31:29 Rep. Custer asked whether the items that Mr. Sill discussed would sunset once a plan is developed.
- 12:32:35 Rep. Dunwell asked Mr. Sill why the Land Use Working Group has not come up with a comprehensive fix for the 2023 Session.
- 12:34:46 Sen. Esp expressed his optimism about the ability to complete a fix in a timely manner.

#### **GENERAL PUBLIC COMMENT** - None

#### **COMMITTEE WORK SESSION**

- 12:35:33 Ms. Henneman discussed proposed agenda items for the March meeting.

#### **ADJOURNMENT**

- 12:36:35 Rep. Custer adjourned the meeting at 12:36 p.m.